EX PARTE OR LATE FILED

ORIGINAL

AKIN, GUMP, STRAUSS, HAUER & FELD, L.L.P.
ATTORNEYS AT LAW

DALLAS, TEXAS
AUSTIN, TEXAS
SAN ANTONIO, TEXAS
HOUSTON, TEXAS
NEW YORK, NEW YORK

A REGISTERED LIMITED LIABILITY PARTNERSHIP
INCLUDING PROFESSIONAL CORPORATIONS
1333 NEW HAMPSHIRE AVENUE, N.W.
SUITE 400
WASHINGTON, D.C. 20036
(202) 887-4000
FAX (202) 887-4288

BRUSSELS, BELGIUM
MOSCOW, RUSSIA

WRITER'S DIRECT DIAL NUMBER (202) 887 4011

RECEIVED
FEB - 1 1996

February 1, 1996

BY HAND DELIVERY
Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: Ex Parte Presentation
CC Docket No. 92-297

Dear Mr. Caton:

On February 1, 1996, Teledesic Corporation ("Teledesic") made a written ex parte presentation in CC Docket No. 92-297 to Scott B. Harris, Chief, International Bureau, concerning the above-referenced proceeding. See Attachment A. Teledesic also submitted copies of the ex parte presentation to Donald Gips, Deputy Chief, Office of Plans and Policy, Tom Tycz, Chief, Satellite and Radiocommunication Division, International Bureau, Cecily Holiday, Deputy Chief, Satellite and Radiocommunication, International Bureau, Joslyn Read, Assistant Chief, Satellite and Radiocommunication Division, International Bureau, Harry Ng, Chief, Satellite Engineering Branch, Satellite and Radiocommunication Division, International Bureau, and Jennifer Gilsenan, Karl Kensinger and Giselle Gomez of the International Bureau.

Pursuant to Section 1.1206(a)(1) of the Commission's Rules, an original and two

No. of Copies rec'd 0+3
List A B C D E

copies of this letter and its attachment are enclosed. A copy of this letter and its attachments are also being provided to the FCC staff indicated above.

Very truly yours,

Tom W. Davidson, P.C.
Jennifer A. Manner

cc: Scott B. Harris, Esq.
Mr. Donald Gips
Mr. Tom Tycz
Cecily Holiday, Esq.
Ms. Joslyn Read
Jennifer Gilsenan, Esq.
Karl Kensinger, Esq.
Mr. Harry Ng
Ms. Giselle Gomez

AKIN, GUMP, STRAUSS, HAUER & FELD, L.L.P.
ATTORNEYS AT LAW

DALLAS, TEXAS
AUSTIN, TEXAS
SAN ANTONIO, TEXAS
HOUSTON, TEXAS
NEW YORK, NEW YORK

A REGISTERED LIMITED LIABILITY PARTNERSHIP
INCLUDING PROFESSIONAL CORPORATIONS
1333 NEW HAMPSHIRE AVENUE, N.W.
SUITE 400
WASHINGTON, D.C. 20036
(202) 887-4000
FAX: (202) 887-4288

BRUSSELS, BELGIUM
MOSCOW, RUSSIA

WRITER'S DIRECT DIAL NUMBER: (202) 887-4576

February 1, 1996

Scott B. Harris, Esq.
Chief
International Bureau
Federal Communications Commission
2000 M Street, N.W.
Washington, D.C. 20554

Re: Ex Parte Presentation
CC Docket No. 92-297

Dear Mr. Harris:

At a meeting held by the International Bureau ("Bureau") on January 25, 1996 to discuss the status of CC Docket No. 92-297, the Bureau staff circulated for consideration two band segmentation plan "options" for the 27.5 - 30.0 GHz band (the "28 GHz band") that were at variance with the band plan proposed by the Federal Communications Commission ("FCC" or "Commission") in the above-referenced proceeding. See Rulemaking to Amend Parts 1, 21 and 25 of the Commission's Rules to Redesignate the 27.5 - 29.5 GHz Frequency Band, to Reallocate the 27.5 - 30.0 GHz Band, to Establish Rules and Policies for Local Multipoint Distribution Services and the Fixed Satellite Service, FCC 95-287, CC Docket No. 92-297 (released July 28, 1995) ("Third NPRM").1/ The two options made the domestic allocation of the 28.6 - 28.7 GHz band contingent on the outcome of the 1997 World Radiocommunication Conference ("WRC-97"). For the reasons discussed below, it is imperative that the FCC designate and make unconditionally available now the 28.6 - 28.7 GHz band for domestic licensing for broadband NGSO satellite systems operating in the fixed satellite service ("FSS").

1/ Extensive public comments were filed in the above-referenced proceeding in support of the band plan proposed in the Third NPRM.

If the FCC does not act now to designate the 28.6 - 28.7 GHz band for broadband NGSO use, the ability of the United States to succeed on this and other issues at WRC-97 and future WRCs will be adversely affected. Throughout months of negotiations prior to the 1995 World Radicommunication Conference ("WRC-95"), the United States was aggressively advocating that minimum discrete blocks of 500 MHz of primary spectrum in the 17.7 - 20.2 GHz and 27.5 - 30.0 GHz bands (collectively the "Ka band") were necessary for deployment of viable NGSO FSS satellite systems. On the basis of the United States proposal and a proposal submitted by Indonesia, and in light of the vast potential benefits that non-geostationary orbit ("NGSO") satellite systems could provide, WRC-95 adopted a resolution identifying the 500 MHz sought by the U.S. for NGSO satellite systems. As a last minute compromise to gain European support for the resolution, final disposition of 100 MHz of the identified spectrum was deferred until 1997. After working so aggressively and successfully for the broadband NGSO designation, the credibility of the United States clearly will suffer if the Commission now backs off from its proposals to WRC-95 and the band plan that served as the basis of these proposals. If the United States retreats from its WRC-95 position on broadband NGSO satellite system requirements and makes the designation of the 28.6 - 28.7 GHz band contingent on the outcome of WRC-97, future United States conference positions, not only for NGSO FSS, but also for the full range of U.S. interests at future conferences, will be undermined. These interests might include geostationary orbit FSS, broadcast satellite service, the mobile satellite service ("MSS") and terrestrial services. The potential harm to United States interests and the ultimate costs of diminished U.S. credibility in these international fora are incapable even of identification now.2/

There is more general long-term U.S. interest at stake here. In recent years, a number of major NGSO satellite systems have been proposed to meet a range of service needs, most of which have been advanced by U.S. entities. While geostionary orbit ("GSO") satellites will

---

2/ The adverse effect on the United States' leadership role in international spectrum management that will result should the FCC retreat from its WRC-95 position on NGSO satellite system use in the 28.6 - 28.7 GHz band is illustrated by United States' recent effort to secure additional spectrum for the MSS. Backed by the United States and based on the anticipated needs of MSS system proponents, the 1992 World Administrative Radiocommunications Conference ("WARC-92") allocated 80 MHz of spectrum to the MSS. Final Acts of the 1992 World Administrative Radio Communications Conference (1992). Subsequently, the Commission took what the world perceived as an inconsistent action and allocated 20 MHz of this spectrum domestically to the personal communications service ("PCS"). Amendment of the Commission's Rules to Establish New Personal Communications Services, 8 FCC Rcd 7700 (1993), on recon., 9 FCC Rcd 4957, 4996 (1994). This FCC action created resentment internationally and adversely impaired United States efforts at WRC-95 to obtain additional spectrum for the MSS. See e.g., National Delegations Get Set for Spectrum Struggle at WRC-95, Mobile Communications, Oct. 5, 1995. Thus, administrations at WRC-95 cited the FCC's domestic PCS action in their successful efforts to defeat the allocation of certain MSS spectrum sought by the United States. The United States must not repeat the error made in its domestic PCS proceeding when addressing the designation of spectrum domestically in the 28 GHz band for broadband NGSO satellite use.

continue to play an important role in space-based communications, particularly for broadcast applications, increasingly, they will share the field with these NGSO satellite systems. It is unlikely that the Teledesic satellite system will be the last iteration of this NGSO satellite technology. Almost certainly the United States will need to seek action at future World Radiocommunication Conferences ("WRCs") to obtain additional spectrum for the deployment of these NGSO satellite systems. Because the current international regulatory scheme gives priority to GSO satellite systems in FSS bands, any proposed NGSO system necessarily requires WRC action. The U.S. has taken a leadership role in advancing these systems and the international regulatory action required to facilitate them, and likely will continue to do so given its combination of technical, financial and regulatory resources. Accordingly, it would be short-sighted for the U.S. to back off from the significant gains achieved at WRC-95, only to face the prospect of having to return later to seek additional NGSO spectrum. The U.S. should stick with a course of action, particularly where, as here, it is consistent with long-term U.S. interests.

Designating the 28.6 - 28.7 GHz band domestically for broadband NGSO satellite systems without any conditions or contingencies is fully consistent with the outcome of WRC-95. No action was taken at WRC-95 to prohibit, restrict or impose a freeze on the processing of systems already notified in the 28.6 - 28.7 GHz band. In fact, the designation domestically of the 28.6 - 28.7 GHz band for NGSO satellite system use is consistent with the intent of Resolution 118 and is necessary to enable the implementation of global satellite systems, like Teledesic, already notified in the band. See Resolution 118: Use of the Bands 18.8 - 19.3 GHz and 28.6 - 29.1 GHz By Non-Geostationary Fixed-Satellite Service Systems, WRC-95 Final Acts (Geneva 1995). If the U.S. does not proceed immediately to make this spectrum available domestically and to license broadband NGSO satellite systems, such inaction will retroactively validate those who urged inaction on the U.S. proposals at WRC-95.

The United States should take the actions necessary now to provide the maximum amount of regulatory certainty possible. The licensing of any innovative communications system involves a certain amount of regulatory uncertainty and satellite systems are no exception, but the U.S. government should not contribute unnecessarily to this uncertainty. The global satellite regulatory environment is dynamic and constantly evolving. Debate is just beginning, for example, on how to regulate global roaming by MSS subscribers. Although this and other global regulatory issues still remain unresolved, the FCC, nevertheless, acted expeditiously and issued MSS licenses in 1995 to qualified United States applicants. Similarly, the FCC should not hesitate here in fulfilling its obligation to continue its leadership role and begin to license Ka band satellite systems immediately consistent with the band plan proposed in the Third NPRM. Leaving the fate of 20% of the domestic NGSO band segment unsettled for the next two years would hamper the ability of companies like Teledesic to deploy global broadband satellite systems in the Ka band.

Based on the foregoing, Teledesic urges the FCC to proceed forward expeditiously to adopt the band plan for the 28 GHz band as originally proposed in the Third NPRM.

Sincerely,

Tom W. Davidson, P.C.
Jennifer A. Manner, Esq.
Counsel for Teledesic Corporation

cc: Mr. William F. Caton
Mr. Donald Gips
Mr. Tom Tycz
Cecily Holiday, Esq.
Ms. Joslyn Read
Jennifer Gilsenan, Esq.
Karl Kensinger, Esq.
Mr. Harry Ng
Ms. Giselle Gomez